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Attorneys for Plaintiffs
LIFESCAN, INC. and
LIFESCAN SCOTLAND

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO**

LIFESCAN, INC. and
LIFESCAN SCOTLAND,

Plaintiffs,

v.

SHASTA TECHNOLOGIES, LLC,
DECISION DIAGNOSTICS CORP.,
PHARMATECH SOLUTIONS, INC., and
CONDUCTIVE TECHNOLOGIES, INC.,

Defendants.

Case No. CV12-6360 (JST)

**PLAINTIFFS' UNDERTAKING
REGARDING PRELIMINARY
INJUNCTION BOND**

Judge: Hon. Jon S. Tigar

Courtroom: 9

FILED
2013 JUN 26 P 2:02
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

POWER OF ATTORNEY
ON FILE WITH
CLERK, U.S. DISTRICT COURT

DEPUTY CLERK

1
2 Dated: June 26, 2013

3 O'MELVENY & MYERS LLP

4 By: Susan Roeder

5 Susan Roeder

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27 *Attorneys for Plaintiffs LifeScan, Inc. and*
28 *Johnson & Johnson*

OMM_US:71612484.1

Bond 82299822

United States District
Court, Northern District of
California

IN THE

LIFESCAN, INC. and JOHNSON & JOHNSON

Plaintiff

vs.

SHASTA TECHNOLOGIES, LLC, DECISION DIAGNOSTICS CORP.,
PHARMATECH SOLUTIONS, INC., and CONDUCTIVE TECHNOLOGIES, INC.

Defendant

UNDERTAKING ON

- ☐ Temporary Restraining Order
☒ Preliminary Injunction
☐ Injunction

WHEREAS, by an Order of the above entitled Court made on the 24th day of June, 2013, Plaintiff was required to file an undertaking in the sum of \$ 3,681,776.00 as a condition for a Preliminary Injunction Bond to be in effect restraining and enjoining the above named Defendant from the commission of certain acts as more fully set forth in said Order,

NOW, THEREFORE, we, LIFESCAN, INC. and JOHNSON & JOHNSON, as Principal, and Federal Insurance Company, a corporation, organized and existing under the laws of the State of IN and authorized to transact business in the State of California, as Surety, in consideration of the premises and the issuance of said Preliminary Injunction Bond, do hereby jointly and severally undertake to pay all costs and disbursements that may be decreed to the Defendant and such damages not exceeding the amount of Three Million Six Hundred Eighty One Thousand Seven Hundred Seventy Six and 00/100 Dollars (\$ 3,681,776.00), as the Defendant may sustain by reason of said Preliminary Injunction Bond if the same be wrongful and without sufficient cause.

IN WITNESS WHEREOF, we have each set our hands this 26th day of June, 2013.

Federal Insurance Company

By

Tom Branigan

Tom Branigan, Attorney-in-Fact



**Chubb
Surety**

**POWER
OF
ATTORNEY**

**Federal Insurance Company
Vigilant Insurance Company
Pacific Indemnity Company**

**Attn: Surety Department
15 Mountain View Road
Warren, NJ 07059**

Know All by These Presents, That **FEDERAL INSURANCE COMPANY**, an Indiana corporation, **VIGILANT INSURANCE COMPANY**, a New York corporation, and **PACIFIC INDEMNITY COMPANY**, a Wisconsin corporation, do each hereby constitute and appoint **Tom Branigan, John D. Gilliland, Catherine Gustavson, John T. Lettieri, Patrick T. Moughan and Paul Rodriguez** of San Francisco, California

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said **FEDERAL INSURANCE COMPANY**, **VIGILANT INSURANCE COMPANY**, and **PACIFIC INDEMNITY COMPANY** have each executed and attested these presents and affixed their corporate seals on this **1st** day of **March, 2013**.

Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

David B. Norris, Jr.

David B. Norris, Jr., Vice President

STATE OF NEW JERSEY

ss.

County of Somerset

On this **1st** day of **March, 2013** before me, a Notary Public of New Jersey, personally came Dawn M. Chloros, to me known to be Assistant Secretary of **FEDERAL INSURANCE COMPANY**, **VIGILANT INSURANCE COMPANY**, and **PACIFIC INDEMNITY COMPANY**, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros, being by me duly sworn, did depose and say that he is Assistant Secretary of **FEDERAL INSURANCE COMPANY**, **VIGILANT INSURANCE COMPANY**, and **PACIFIC INDEMNITY COMPANY** and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of the By-Laws of said Companies; and that he signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that he is acquainted with David B. Norris, Jr., and knows him to be Vice President of said Companies; and that the signature of David B. Norris, Jr., subscribed to said Power of Attorney is in the genuine handwriting of David B. Norris, Jr., and was thereto subscribed by authority of said By-Laws and in deponent's presence.

Notarial Seal



**KATHERINE J. ADELAAR
NOTARY PUBLIC OF NEW JERSEY
No. 2316685
Commission Expires July 14, 2014**

Katherine J. Adelaar

Notary Public

CERTIFICATION

Extract from the By-Laws of **FEDERAL INSURANCE COMPANY**, **VIGILANT INSURANCE COMPANY**, and **PACIFIC INDEMNITY COMPANY**:

"All powers of attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman or the President or a Vice President or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the following officers: Chairman, President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached."

I, Dawn M. Chloros, Assistant Secretary of **FEDERAL INSURANCE COMPANY**, **VIGILANT INSURANCE COMPANY**, and **PACIFIC INDEMNITY COMPANY** (the "Companies") do hereby certify that

- (i) the foregoing extract of the By-Laws of the Companies is true and correct,
- (ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U.S. Treasury Department; further, Federal and Vigilant are licensed in Puerto Rico and the U.S. Virgin Islands, and Federal is licensed in American Samoa, Guam, and each of the Provinces of Canada except Prince Edward Island; and
- (iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Warren, NJ this

day of **JUN 26 2013**



Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT ADDRESS LISTED ABOVE, OR BY Telephone (908) 903- 3493 Fax (908) 903- 3656

e-mail: surety@chubb.com

SURETY ACKNOWLEDGMENT

State of California)

County of San Francisco)

On 26th day of June, 2013 before me, Celeste C. Austria, Notary Public, personally appeared Tom Branigan who proved to me on the basis of satisfactory evidence to be the Attorney-in-Fact of Federal Insurance Company whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in her authorized capacity(ies), and that by her signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of CALIFORNIA that the foregoing paragraph is true and correct.

Signature: Celeste C. Austria

